

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANGELA M. BEVERIDGE,

Plaintiff,

v.

Case Number 10-12883

Honorable David M. Lawson

Magistrate Judge Michael Hluchaniuk

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**OPINION AND ORDER ADOPTING MAGISTRATE JUDGE'S REPORT
AND RECOMMENDATION, DENYING PLAINTIFF'S MOTION TO REMAND,
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT,
AFFIRMING THE COMMISSIONER, AND DISMISSING THE COMPLAINT**

The plaintiff filed the present action on July 22, 2010 seeking review of the Commissioner's decision denying the plaintiff's claims for a period of disability and disability insurance benefits under Title II of the Social Security Act and for supplemental security income under Title XVI of the Social Security Act. The case was referred to United States Magistrate Judge Virginia M. Morgan pursuant to 28 U.S.C. § 636(b)(1)(B) and E.D. Mich. LR 72.1(b)(3) and was reassigned to United States Magistrate Judge Michael J. Hluchaniuk on March 11, 2011. Thereafter, the plaintiff filed a motion to remand the case for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). The defendant filed a motion for summary judgment requesting affirmance of the decision of the Commissioner. Magistrate Judge Hluchaniuk filed a report on July 18, 2011 recommending that the plaintiff's motion to remand be denied, the defendant's motion for summary judgment be granted, and the plaintiff's complaint be dismissed. The plaintiff filed timely objections to the report and recommendation and the defendant filed a response. This matter is now before the Court.

When objections to a report and recommendation are filed, “[a] judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). The objections must be specific, *Spencer v. Bouchard*, 449 F.3d 721, 725 (6th Cir. 2006) (“Overly general objections do not satisfy the objection requirement.”), and “clear enough to enable the district court to discern those issues that are dispositive and contentious,” *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995). When presented with proper objections, as here, the Court may not simply concur in the magistrate judge’s findings; “it must conduct its own review in order to adopt the recommendations.” *McCombs v. Meijer, Inc.*, 395 F.3d 346, 360 (6th Cir. 2005) (citing *Massey v. City of Ferndale*, 7 F.3d 506, 510 (6th Cir. 1993)).

In this case, the plaintiff raised two main issues in her motion for summary judgment: (1) the Administrative law Judge (ALJ) did not give controlling weight to the opinion of a treating source or give an adequate explanation for not doing so; and (2) the ALJ failed to engage in the analysis required by Social Security Regulation (SSR) 99-2P for evaluating claims of Chronic Fatigue Syndrome. In her objections, the plaintiff withdrew the second issue. With respect to the first issue, the plaintiff also argues that patients with fibromyalgia may demonstrate fairly normal test results, and therefore the usual recommended limitations were inapposite in her case.

The Court has conducted a thorough review of the administrative record, the parties dispositive motions, the magistrate judge’s report and recommendation, the plaintiff’s objections, and the Commissioner’s response. The Court finds that Magistrate Judge Hluchaniuk correctly addressed the issue of the ALJ’s rejection of Dr. James Bash’s opinion. The Court cannot improve

on treatment of the issue and sees no useful purpose of repeating Judge Hluchaniuk's rationale, which the Court adopts as its own.

Therefore, after a *de novo* review of the entire record and the materials submitted by the parties, the Court concludes that the magistrate judge properly reviewed the administrative record and applied the correct law in reaching his conclusion. The Court has considered the plaintiff's objection to the report and finds it to lack merit.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [dkt #14] is **ADOPTED**.

It is further **ORDERED** that the plaintiff's objections [dkt #17] are **OVERRULED**.

It is further **ORDERED** that the plaintiff's motion to remand [dkt #9] is **DENIED**.

It is further **ORDERED** that the defendant's motion for summary judgment [dkt #12] is **GRANTED**.

It is further **ORDERED** that the findings of the Commissioner are **AFFIRMED**.

It is further **ORDERED** that the plaintiff's complaint [dkt. #1] is **DISMISSED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: September 22, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 22, 2011.

s/Deborah R. Tofil
DEBORAH R. TOFIL